

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

ILIFE TECHNOLOGIES, INC.,	§	
	§	
Plaintiff,	§	
	§	Case No. 3:13-cv-04987
v.	§	
	§	
NINTENDO OF AMERICA INC.,	§	
	§	
Defendant.	§	

**DEFENDANT NINTENDO OF AMERICA INC.’S  
MOTION TO STRIKE iLIFE’S UNTIMELY NEW EXPERT OPINIONS;  
EXPEDITED BRIEFING REQUESTED BY SEPARATE MOTION**

Expert discovery has been closed for weeks. Pretrial and trial deadlines are fast approaching. Jury selection begins August 14, 2017. Recently, however, iLife submitted untimely new expert reports, containing entirely new expert opinions, new calculations, and new analysis in violation of Federal Rule of Civil Procedure 26(a)(2)(B) and the Court’s Scheduling Order. Defendant Nintendo of America Inc. (“NOA”) therefore moves to strike and exclude the new opinions, calculations, and analysis of Mr. Walter Bratic and Dr. Isaac Davenport. The contentions of law, arguments, authorities, and evidence in support of NOA’s Motion to Strike iLife’s Untimely New Expert Opinions are provided in the accompanying Brief in Support and Appendix, filed contemporaneously herewith.

Dated: July 10, 2017

Respectfully submitted,

/s/ Stephen R. Smith

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*Attorneys for Defendant  
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**CERTIFICATE OF CONFERENCE**

The undersigned certifies that counsel for Defendant Nintendo of America Inc. has complied with the meet-and-confer requirement in Local Civil Rule 7.1(a). The Local Civil Rule 7.1(a) conference occurred on July 5-6, 2017, via email and telephone between Matthew J. Brigham (on behalf of Nintendo of America Inc.) and Wallace Dunwoody (on behalf of iLife Technologies, Inc.). The parties were unable to reach agreement on the relief requested by this motion, and therefore this motion is being presented to the Court for determination.

/s/ Matthew Brigham  
Matthew Brigham

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing **MOTION TO STRIKE iLIFE'S UNTIMELY NEW EXPERT OPINIONS; EXPEDITED BRIEFING REQUESTED BY SEPARATE MOTION** was served via CM/ECF upon all counsel of record on July 10, 2017.

/s/ Stephen R. Smith  
Stephen R. Smith